

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3103 of 1997

with

Civil Application No.10003 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GSRTC

Versus

KALPANABEN WD/O DIPAK PARIKH DECD.THRO'HEIR KRISHNALAL A

Appearance:

MRS VASAVDATTA BHATT for appellant.

MR MTM HAKIM for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE A.M.KAPADIA

Date of decision: 17/04/98

ORAL JUDGEMENT (Per J.N. Bhatt, J.):

The sole question which has been raised in this appeal is as to whether the amount of Rs.4,07,000/- awarded by the Tribunal by the impugned award against the claim of Rs.8,00,000 in view of the loss of life of a Science Graduate, working person and a healthy young man, is excessive to the extent of Rs.1,00,000? to which our

clear answer and spontaneous response is in the negative for the reasons given hereinafter.

The accident in question occurred on 1.3.1987 when the deceased Deepak, Manager of Krishna Petroleum, was returning from Varnama plant to Vadodara, in motor car No. GRE 5111, alongwith his friend, Sanjay Shah, sustained fatal injuries when the said car reached near Priyadarshini Apartments, on account of violent impact of the S.T.Bus No. GRI 6859. The car was, totally, smashed and deceased Deepak and his friend Sanjay were, seriously, injured. Unfortunately, Deepak succumbed to the said injuries. In view of the aforesaid facts, heirs and legal representatives of the deceased filed Motor Accident Claim Petition No. 9 of 1988 before the Tribunal, at Vadodara, for compensation of an amount of Rs.8 lacs from the opponents with interest.

The opponents appeared and resisted the claim petition by filing written statement, at Ex.18. Allegation of rash and negligent driving on the part of the driver of the S.T. bus and the second allegation that the deceased was working and attending as partner of partnership firms, came to be countenanced.

The Tribunal, upon assessment of the evidence and the facts and circumstances emerging from the record, copies whereof were given to us during the course of the submission, held that the accident had occurred, solely, on account of rashness and negligence on the part of the driver of the S.T. bus and awarded an amount of Rs.4,07,000 under both the recognized heads as compensation with interest at the rate of 15% from the date of the application till payment.

The first contention is that the deceased while in charge of the motor car was contributory negligent in the happening of the road mishap in which he lost his life and the Tribunal has, therefore, not, rightly, considered this aspect. This contention is, rightly, rejected by the Tribunal in the light of the facts and circumstances emerging from the evidence and the discussions by the Tribunal in para 11 in the impugned judgment and award. Therefore, the first contention is rejected.

The second contention pertains to the quantification of the damages. After having considered the evidence on record, we have no slightest hesitation in affirming and confirming the amount of award granted by the Tribunal to the original claimants for the, untimely, unfortunate demise of a young dynamic Science graduate who was also

working as Manager in Krishna Petroleum. The Tribunal relied on the documentary evidence of the salary of Rs.2,000 per month. The Tribunal has considered future prospects of the deceased which is also an incumbency upon the Tribunal. The average monthly income of the deceased came to be assessed at Rs.3,000 and the Tribunal deducted 1/3 under the head of personal living expenses of the deceased. The deceased was in charge of maintaining and running the household consisting of three persons at the relevant time. The Tribunal, in our opinion, has, rightly, considered the dependency value at Rs.2000 and has, correctly, awarded an amount of Rs.2,000 x 12 x 16 = Rs.3,84,000 under the head of loss of dependency benefit. The Tribunal has also awarded an amount of Rs.20,000 under the head of loss of expectation of life and Rs.3000 under the head of funeral expenses. Thus, the amount of Rs.4,07,000 awarded by the Tribunal under both the recognized heads for the death of a young dynamic breadwinner of the family, who had a bright prospects in future, by no stretch of imagination could be said to be excessive or exorbitant requiring our interference in this appeal. Therefore, the second contention is also meritless and hence it is rejected. Consequently, the appeal is required to be dismissed. Accordingly, the appeal is dismissed. No order as to costs.

In view of the above judgment, rule is discharged in the civil application. No order as to costs.